



Billing Code: 4520-43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. Electronic Mail: zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.
2. Facsimile: 202-693-9441.
3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite

4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202-693-9447 (Voice), barron.barbara@dol.gov (E-mail), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor (Secretary) determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M-2017-030-C.

Petitioner: Bronco Utah Operations, LLC, P.O. Box 527, Emery, Utah 84522.

Mine: Emery Mine, MSHA I.D. No. 42-00079, located in Emery County, Utah.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit the alternative method of compliance to allow the use of nonpermissible low-voltage or battery-powered electronic testing or diagnostic equipment in or inby the last open crosscut.

The petitioner states that:

(1) The use of nonpermissible low-voltage or battery-powered electronic testing and diagnostic equipment will be limited to laptop computers; oscilloscopes; vibration analysis machines; cable fault detectors; point temperature probes; infrared temperature devices; voltage, current, and power measurement recorders; pressure and flow measurement devices; signal analyzer devices; ultrasonic thickness gauges; electronic tachometers; and nonpermissible surveying equipment. Other testing and diagnostic equipment may be used if approved in advance by the MSHA District Office.

(2) Nonpermissible electronic testing and diagnostic equipment will be used only when equivalent permissible equipment does not exist.

(3) All other test and diagnostic equipment used in or inby the last open crosscut will be permissible.

(4) All nonpermissible electronic testing and diagnostic equipment used in or inby the last open crosscut will be examined by a qualified person, as defined in 30 CFR

75.153, prior to being used to ensure the equipment is being maintained in safe operating condition. These examinations results will be recorded in the weekly examination of electrical equipment book and will be made available to MSHA and the miners at the mine.

(5) A qualified person, as defined in 30 CFR 75.151, will continuously monitor for methane immediately before and during the use of nonpermissible electronic testing and diagnostic equipment in or inby the last open crosscut. The results of such examination(s) will be recorded as a special examination in the on-shift examination record books immediately after the shift on which the examination(s) were performed.

(6) Nonpermissible electronic testing and diagnostic equipment will not be used if methane is detected in concentrations at or above 1.0 percent. When a 1.0 percent or more methane concentration is detected while the nonpermissible electronic equipment is being used, the equipment will be deenergized immediately and withdrawn to outby the last open crosscut.

(7) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(8) Except for the time necessary to troubleshoot under actual mining conditions, coal production in the miner section will cease. However, coal may remain in or on the equipment in order to test and diagnose the equipment under "load."

(9) Nonpermissible electronic testing and diagnostic equipment will not be used to test equipment when float coal dust is in suspension.

(10) All electronic testing and diagnostic equipment will be used in accordance with the manufacturer's recommended safe use practices.

(11) Qualified personnel engaged in the use of electronic testing and diagnostic equipment will be properly trained to recognize the hazards and limitations associated with use of the electronic testing and diagnostic equipment.

(12) The petitioner will notify MSHA before using nonpermissible electronic testing and diagnostic equipment in or inby the last open crosscut. The notice will advise MSHA when any nonpermissible electronic testing and diagnostic equipment is put in service and will give MSHA the opportunity to inspect such equipment before being used.

(13) Within 60 days after the proposed decision and order (PDO) becomes final, the petitioner will submit proposed revisions for its approved 30 CFR Part 48 training plan to the District Manager. These revisions will specify initial and refresher training regarding the terms and conditions of the PDO.

The petitioner asserts that application of the existing standard will result in a diminution of safety to the miners and that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M-2017-031-C.

Petitioner: M & D Anthracite Coal Company, 2030 East Center Street, Tremont, Pennsylvania 17981.

Mine: Slope # 1 Mine, MSHA I.D. No. 36-09976, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 49.2(b) (Availability of mine rescue teams).

Modification Request: The petitioner requests a modification of the existing standard to permit the reduction of two mine rescue teams with five members and one alternate each to two mine rescue teams of three members each with one alternative for either team.

The petitioner states that:

(1) The underground mine is a small mine and there is hardly enough physical room to accommodate more than three or four miners in the working places. An attempt to utilize five or more rescue team members in the mine's confined working places would result in a diminution of safety to both the miners at the mine and members of the rescue team.

(2) Records of Mine Emergency responses over the last 20 years indicate that rescue and recovery operations conducted by Anthracite Underground Rescue, Inc. (AUGR) have never utilized more than one team. In addition, when one rescue team was utilized there were no more than three rescue team members traveling to a working place simultaneously.

(3) Employment in underground anthracite mines has decreased substantially and the ratio of mine rescue teams to underground miners has correspondingly been reduced. The loss of the underground work force dramatically reduces the pool of qualified people available to fill mine rescue positions.

(4) Pennsylvania Deep Mine Safety presently has four deep mine inspectors that have deep mine rescue training and are pledged to assist if required in an emergency. In addition, the surrounding small mines have always provided assistance during mine emergencies.

The petitioner asserts that the proposed alternative method will provide the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2017-032-C.

Petitioner: M & D Anthracite Coal Company, 2030 East Center Street, Tremont, Pennsylvania 17981.

Mine: Slope # 1 Mine, MSHA I.D. No. 36-09976, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 49.6(a)(1) and (a)(5) (Equipment maintenance requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit the reduction of twelve self-contained oxygen breathing apparatus, to eight self-contained apparatus and the reduction of twelve permissible cap lamps and charging rack to eight permissible cap lamps and charging rack.

The petitioner states that:

(1) A petition for modification of 30 CFR 49.2(b) allowing the reduction of two rescue teams with five members and one alternate each to two rescue teams of three members each with one alternate has been granted to all operating anthracite coal mines.

(2) Eight self-contained breathing apparatus and eight permissible cap lamps are sufficient to supply the seven members of the rescue team.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2017-033-C.

Petitioner: M & D Anthracite Coal Company, 2030 East Center Street, Tremont, Pennsylvania 17981.

Mine: Slope # 1 Mine, MSHA I.D. No. 36-09976, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.311(b)(2) and (b)(3) (Main mine fan operation).

Modification Request: The petitioner requests a modification of the existing standard to permit the electrical circuits entering the underground mine to remain energized to the mine's pumps, while the main fan has been shut down during idle shifts when no miners are working underground.

The petitioner states that:

(1) The mine requires pumping water from the sump area of the intake haulage slope below the active gangway level workings intermittently and for different periods of time on a daily basis. During the wet season from late winter to early summer, the pumps are often required to operate for extended periods of time to keep the mine from flooding.

(2) Most anthracite mines work only one shift per day, 5-6 days per week during the colder months when coal sales are greatest, and may only work 2-3 days per week during the warmer months because of lower coal sales.

(3) The vast majority of underground anthracite mines are small, employ 5 or less miners underground, have very low daily coal production of less than 25 tons, and have never encountered a measurable quantity of methane during the life of the mine.

(4) Methane liberation in the few underground mines with a history of liberation occurs only when coal is shot from the solid and is dissipated by face ventilation shortly thereafter.

(5) Underground anthracite miners are significantly affected by natural ventilation that continues after the mine fan has been intentionally stopped during idle periods.

(6) Accumulations of methane, in those underground mines with a history of liberation, are historically found in chutes and breasts (entries driven up the pitch) and are not yet connected to the adjacent return entry. These entries are not affected by the natural ventilation air currents.

(7) The primary method of face ventilation utilized in underground anthracite mines is compressed air movers with approved tubing in the working place. They are shut off prior to the miners exiting the mine at the end of the shift and prior to the stoppage of the main fan for the idle shifts. Therefore, potential accumulation of methane in the working face is unlikely to be affected by natural ventilation currents.

(8) The mine's pumping system typically consists of a submersible pump located below the water level in the sump and a centrifugal pump located in the intake haulage slope above the active gangway level. The pumps are started and shut off by a set of switches or electrodes located in the sump. The switch/electrode located at the highest elevation in the sump will start the pumps when the water depth increases to a pre-determined level to protect the active gangway level from flooding. The pumps will continue to operate until the water level depth decreases to the elevation of the lower switch/electrode.

(9) Compliance with 30 CFR 75.311 through the continuous operation of the main mine fan when pumps are energized would result in a diminution of safety to the miners. During the colder months, the wet conditions present in the intake haulage slope will result in freezing and accumulations of ice creating a hazard to the miners riding the slope conveyance and to those miners who must manually chip away the ice in the pitching slope thereby increasing a fall hazard. The amount of ice accumulations during a single shift of production is usually minimal and can be melted during the idle shifts, with the main fan off, as the natural ventilating air current is warmed by the higher underground temperatures and carried through slope.

(10) The mine operator proposes to initiate the following alternatives to ensure the safety of the miners:

(a) The examiner will determine whether the pumps are operating and if the natural ventilation air current is moving in the proper direction prior to energizing the main mine fan and before starting the required pre-shift examination.

(b) In the cases where the pumps are not operating when the examiner arrives, the examiner will deenergize the pump circuits before starting the main mine fan and will allow the fan to operate for 30 minutes prior to entering the mine to conduct the pre-shift examination.

(c) During the pre-shift examination, when no accumulation of methane is found in the vicinity of the pumps, the pump circuits may be energized before the miners travel underground.

(d) In those cases where the pumps are found to be already in operation because of high water levels and when the natural ventilating currents are moving in the proper

direction, the main mine fan will be started and run for 30 minutes before entering the mine to conduct a pre-shift examination. Examination of the mine pump installation will be completed prior to entering the active gangway level working and before continuing the pre-shift examination.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2017-034-C.

Petitioner: M & D Anthracite Coal Company, 2030 East Center Street, Tremont, Pennsylvania 17981.

Mine: Slope # 1 Mine, MSHA I.D. No. 36-09976, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.335 (Seal strengths, design applications, and installation).

Modification Request: The petitioner requests a modification of the existing standard to permit alternative methods of construction employing wooden material of moderate size and weight due to the difficulty in accessing previously driven headings and breasts containing the inaccessible abandoned workings through the use of homemade ladders. Additionally, a design criterion in the 10-psi range should be accepted due to the non-explosibility of anthracite coal dust and minimal potential for either an accumulation of methane in previously mined pitching veins or an ignition source in the gob area, and that seals installed in pairs permit the water trap to be installed only in the gangway seal (lowest elevation) and sampling tube in the monkey (higher elevation) seal.

The petitioner states that:

(1) The required transportation of solid concrete blocks or equivalent materials manually on ladders on pitching anthracite veins will expose miners to greater hazards such as falling, being struck by falling materials, or resulting strains or sprains due to the weight of the materials.

(2) No evidence of ignition in accessible abandoned anthracite workings has been found to date.

(3) In veins pitching greater than 45 degrees, the weight of the seal is transferred to the low side rib (coal).

(4) Irregularly shaped anthracite openings would require substantial cutting of rectangular blocks to ensure proper tie-in to hitches in the top rock, bottom rock, and low side coal rib.

(5) Concrete block and mortar construction for openings parallel to the pitching vein would be almost impossible to construct and subject to failure by its own weight.

(6) Isolation of inaccessible abandoned workings from an active section will permit natural venting of any potential methane build-up through surface breeches, and the mine has not experienced measurable liberation of methane to-date.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2017-035-C.

Petitioner: M & D Anthracite Coal Company, 2030 East Center Street, Tremont, Pennsylvania 17981.

Mine: Slope # 1 Mine, MSHA I.D. No. 36-09976, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of nonpermissible electric equipment within 150 feet of the pillar line to include drags and battery locomotives due in part to the method of mining used in pitching anthracite mines and the alternative hourly evaluation of the mine air quality for methane during operation with one of the gas test results to be recorded in the on-shift examination record. Petitioner also proposes to suspend equipment operation anytime methane concentration at the equipment reaches 0.5 percent either during operation or when found during a pre-shift examination.

The petitioner states that:

(1) The equipment will be operated in the working section's only intake entry (gangway) which is regularly traveled and examined.

(2) The use of drags on less than moderate pitching veins (less than 20 degrees pitch) is the only practical system of mining in use.

(3) Permissible drags are not commercially available and, due in part to their small size, permissible locomotives are not commercially available.

(4) As result of low daily production rates and full timbering support, in-rushes of methane due to massive pillar falls are unlikely to occur.

(5) Recovery of the pillars above the first miner heading is usually accomplished on the advance within 150 feet of the section intake (gangway) and the remaining minable pillars recovered from the deepest point of penetration outby.

(6) The 5,000 cfm of required intake air flow is measured just outby the nonpermissible equipment with the ventilating air passing over the equipment to ventilate the pillar being mined.

(7) The nonpermissible electrical equipment is attended during operation and either power to the unit will be deenergized at the intersection of the working gangway and intake slope or the equipment will be moved to that area when production ceases, thereby, minimizing any ignition potential from the pillar recovery area.

(8) Where more than one active line of pillar breast recovery exists, the locomotive may travel to a point just outby the deepest active chute/breast (room) workings or last open crosscut in a developing set of entries.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2017-037-C.

Petitioner: M & D Anthracite Coal Company, 2030 East Center Street, Tremont, Pennsylvania 17981.

Mine: Slope # 1 Mine, MSHA I.D. No. 36-09976, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1200(d) and (i) (Mine map).

Modification Request: The petitioner requests a modification of the existing standard to permit the substitution of cross-sections in lieu of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000 foot intervals of advance from the intake slope and to limit the required mapping of mine workings above

and below to those present within 100 feet of the vein(s) being mined unless these veins are interconnected to other veins beyond the 100 feet limit, through rock tunnels.

The petitioner states that:

(1) Due to steep pitch encountered in mining anthracite coal veins, contours provide no useful information and their presence would make portions of the map illegible.

(2) The vast majority of current underground anthracite mining involves either second mining of remnant pillars from previous mining/mine operators or the mining of veins of lower quality in proximity to inaccessible and frequently flooded abandoned mine workings which may or may not be mapped.

(3) All mapping for mines above and below will be researched by a contract engineer for the presence of interconnecting rock tunnels between veins in relation to the mine and a hazard analysis done when mapping indicates the presence of known or potentially flooded workings.

(4) Mine workings found to exist beyond 100 feet from the mine, when no rock tunnel connections are found, will be recognized as presenting no hazard to the mine due to the pitch of the vein and rock separation between.

(5) Additionally, the mine workings above and below are usually inactive and abandoned and therefore, not subject to changes during the life of the mine.

(6) Where evidence indicates prior mining was conducted on a vein above or below and research exhausts the availability of mine mapping, the vein will be considered to be mined and flooded and appropriate precautions taken, as required by 30 CFR 75.388, where possible.

(7) Where potential hazards exist and in-mine drilling capabilities limit penetration, surface boreholes may be used to intercept the workings and results analyzed prior to the beginning of mining in the affected area.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2017-038-C.

Petitioner: M & D Anthracite Coal Company, 2030 East Center Street, Tremont, Pennsylvania 17981.

Mine: Slope # 1 Mine, MSHA I.D. No. 36-09976, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1202-1(a) (Temporary notations, revisions and supplements).

Modification Request: The petitioner requests a modification of the existing standard to permit the required interval of survey to be on an annual basis from the initial survey in lieu of the current interval of not more than 6 months.

The petitioner proposes to continue to update the mine map by hand notations on a daily basis and conduct subsequent surveys prior to commencing retreat mining, and when either a drilling program is required by 30 CFR 75.388 or a plan for mining into inaccessible areas is required by 30 CFR 75.389.

The petitioner states that:

(1) The low production and slow rate of advance in anthracite mining make surveying on 6-month intervals impractical. The mine operates using non-mechanized,

hand-loading mining methods. In most cases, annual development is frequently limited to less than 500 feet of gangway advance with associated up-pitch development.

(2) Development above the active gangway is designed to mine into the level above at designated intervals thereby maintaining sufficient control between both surveyed gangways.

(3) The available engineering/surveyor resources are limited in the anthracite coal fields. Surveying on an annual basis is difficult to achieve with four individual contractors currently available.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2017-039-C.

Petitioner: M & D Anthracite Coal Company, 2030 East Center Street, Tremont, Pennsylvania 17981.

Mine: Slope # 1 Mine, MSHA I.D. No. 36-09976, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1400(c) (Hoisting equipment; general).

Modification Request: The petitioner requests a modification of the existing standard to permit the gunboat to transport persons without safety catches or other no less effective devices because to date, no such safety catch or device is available for steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of Anthracite mines, that range in length from 30 to 4200 feet and vary in pitch from 12 degrees and 75 degrees.

The petitioner states that:

(1) A functional safety catch has not been developed. Makeshift devices, if installed, could be activated on knuckles and curves when no emergency exists causing a tumbling effect on the conveyance which would increase rather than decrease the hazard to miners.

(2) As an alternative, the petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device and use hoisting ropes having a factor of safety in excess of the 4 to 8 to 1 as suggested in the American Standards Specifications for Use of Wire Ropes for Mines.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2017-040-C.

Petitioner: Mountain Coal Company, LLC, 5174 Hwy 133, Somerset, CO 81434.

Mine: West Elk Mine, MSHA I.D. No. 05-03672, located in Gunnison County, Colorado.

Regulation Affected: 30 CFR 75.364(b)(2) (Weekly examination).

Modification Request: The petitioner requests a modification of the existing standard that requires at least one entry of each return air course to be traveled and examined in its entirety at least every 7 days by a certified person. The petitioner proposes to establish multiple inlet and outlet evaluation points to measure and evaluate at least every 7 days the air quality, air quantity, and air direction of all air entering and leaving the Sly Gulch South Mains Return in lieu of traveling one of the affected entries. The petitioner states that:

(1) Multiple roof falls and floor heave within the proposed evaluation area limits the entries that can be traveled by the weekly examiner. Some of the traveled entries require the weekly examiner to crawl on his hands and knees, preventing quick egress if necessary.

(2) All air entering and leaving the affected area can be measured and evaluated safely from the proposed inlet and outlet evaluation points shown on the drawing attached to this petition. Access to the proposed inlet and outlet evaluation points is not hindered by roof falls or excessive floor heave, allowing quick egress if necessary.

(3) There are no seals or electrical installations within the proposed evaluation area that must be examined.

(4) In lieu of traveling one of the return entries in the proposed evaluation area, at least every 7 days, a certified person will:

(a) Measure the air quantity at each inlet and outlet evaluation point. If the combined air quantity at the outlet evaluation points differs by more than 20 percent from the combined air quantity at the inlet evaluation points, ventilation controls surrounding the affected area will be examined from the outby side and corrective measures will be implemented to repair the affected ventilation controls to restore the differential air quantities to within 20 percent.

(b) Measure the air quality at each inlet and outlet evaluation point. Both the methane and oxygen concentrations will be measured. Methane concentrations at the inlet and outlet evaluation points will be a minimum of 19.5 percent.

(c) Verify the proper air direction as indicated on the drawing at each inlet and outlet evaluation point.

(d) Record the air quantity, air quality, and a notation of proper air direction at each inlet and outlet evaluation point in the weekly examination book.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard and that traveling one of the affected entries results in a diminution of safety.

Sheila McConnell,

Director,

Office of Standards, Regulations, and Variances.

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